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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,034	01/30/2004	Kameswari S. Konduri	KSKO-25,661	7598

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 06/25/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/769,034	Applicant(s) KONDURI ET AL.	
	Examiner KEVIN K. HILL	Art Unit 1633	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 27 February 2009 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

/Anne Marie S. Wehbe/
 Primary Examiner, Art Unit 1633

Continuation of 10. Other (including any explanation in support of the above items): Regarding Section (iii)—Status of Claims. It appears that Appellant is confused about the status of the claims. In the Office Action mailed March 1, 2007, the Examiner renumbered Claims 29-53 to become Claims 28-52 in accordance with 37 CFR 1.126. Thus, the correct status of Claims are as follows:

Pending: 1-6, 8-19, 22-38, 41-49 and 51-52.

Objected to: 4, 13 and 45.

Withdrawn: 6, 14-15, 30-31, 46-47 and 51.

Cancelled: 7, 20-21, 39-40 and 50.

Rejected: 1-6, 8-13, 16-19, 22-29, 32-38, 41-45, 48-49 and 52.

Appellant states (Appeal Brief, pg 3) that Claim 53 was considered by the Examiner to be pending, but was not addressed by the Examiner in the Office Action summary mailed March 1, 2007. Appellant is respectfully reminded that Claim 53 was renumbered by the Examiner to be Claim 52 in said Office Action (see also discussion above), and thus the claim was rejected in said Office Action.

Regarding the provisional rejection of Claims 1, 9-10, 12-13, 16-18, 34, 37-38, 41-42, 44-45 and 48-49 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3-4, 12, 16-18, 35, 38-39, 42-43, 45-46, 49-50, 53 and 55-56 of copending Application No. 11/442,907, said rejection is now moot in light of Applicant's abandonment of Application No. 11/442,907 as per the telephone conversation with Applicant's representative, F. Lindsey Scott at 972-599-2888 on May 26, 2009, confirming that the application was abandoned.

Regarding Section (vi)—Argument (Appeal Brief, February 27, 2009, pgs 9-11) each ground of rejection must be treated under a separate heading, with citations of the statutes, e.g. Claims 3-5, 9-11, 22, 27, 35, 37-38, 42-43 and 52 are rejected under 35 U.S.C. 112, first paragraph. (See Office Action mailed March 1, 2007; pg 12). For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. See MPEP §1205 and 37 CFR 41.37(c)(vii). In the instant case, there are two different rejections under 35 U.S.C. 112, first paragraph and several claims rejected for different reasons under 35 U.S.C. 112, second paragraph. Applicant's Appeal Brief lumps all rejections under 35 U.S.C. 112 (pg 9).